

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**THOMAS H. KRAKAUER,
on behalf of a class of persons,**

Plaintiff,

v.

Civil Action No. 1:14-cv-00333-CCE-JEP

DISH NETWORK, L.L.C.,

Defendant.

PLAINTIFF'S MOTION TO COMPEL DISCOVERY

Plaintiff Thomas Krakauer respectfully moves the Court to compel Defendant Dish Network L.L.C. ("Dish") to provide testimony about a series of documents over which Dish has incorrectly claimed attorney-client privilege.¹

As explained more fully in the accompanying brief, on March 17, 2015, Plaintiff took the deposition of Defendant Dish Network, L.L.C. ("Dish") 30(b)(6) representative Bruce Werner. During the deposition, Plaintiff introduced two documents bearing on the case and attempted to question the witness about them. Dish objected, citing the attorney-client privilege, and refused to permit the testimony. Plaintiff's counsel also attempted to question two other Dish witnesses, Mike Mills and Amir Ahmed, about the same documents, but was not permitted to do so. The documents in question a) were

¹ Pursuant to Local Rule 37.1(a), the parties met and conferred in good faith in an attempt to resolve the issues in this motion, but were unable to reach a resolution. A Certificate of Discovery Conference is attached as Exhibit F.

obtained from a publicly-available source and a third party not within the privilege; and
b) the U.S. District Court for the Central District of Illinois has already held that any
privilege over the documents has been waived. As explained in Plaintiff's accompanying
brief, these documents are not privileged and the Court should compel Dish to provide
testimony about them and should award Plaintiff his attorneys' fees and costs incurred in
prosecuting this motion and reconvening depositions of these witnesses.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2015 the foregoing was electronically filed with the Clerk of Courts via the CM/ECF System, which will send notification of such filing to the following:

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